

ORIGINAL

United States Court of Federal Claims

No. 17-439 C

Filed: March 7, 2018

LOGAN B. PRESTONBACK,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

FILED

MAR - 7 2018

U.S. COURT OF
FEDERAL CLAIMS

ORDER

On October 6, 2017, the government filed a motion for judgment on the Administrative Record in this case. Plaintiff's Response was originally due November 3, 2017. The Court, *sua sponte*, extended the plaintiff's Response deadline an additional 21 days. Plaintiff failed to provide his Response, and the Court again, *sua sponte*, extended the Response deadline by 21 days. On December 11, 2017, the Court received Plaintiff's Motion for Enlargement of Time, which requested an extension of time until February 28, 2018. The Court granted the Motion for Enlargement of Time on December 12, 2018. In its Order, the Court warned Mr. Prestonback that given the three extensions of time, if a response was not filed by February 28, 2018, the case would be dismissed for failure to prosecute. Mr. Prestonback did not file a response on or before February 28, 2018.

RCFC 41(b) provides that "[i]f the plaintiff fails to prosecute or comply with these rules or a court order, the court may dismiss on its own motion or the defendant may move to dismiss the action or any claim against it." As *pro se* plaintiffs are, by their nature, unassisted, this Court may sometimes grant a *pro se* plaintiff greater lenience throughout the filing process. However, when a party fails to respond to the government's Motions and to subsequent Court Orders, dismissal is not only appropriate but required to properly administer justice. "While dismissal of a claim is a harsh action, especially to a *pro se* litigant, it is justified when a party fails to pursue litigation diligently and disregards the court's rules. . . ." *Whiting v. United States*, 99 Fed. Cl. 13, 17 (2011) (citing *Kadin Corp. v. United States*, 782 F.2d 175, 176-77 (Fed. Cir. 1986)).

Accordingly, this case is **DISMISSED**, without prejudice, for failure to prosecute in accordance with Rule 41(b), and all pending motions are dismissed as moot.

IT IS SO ORDERED.



Loren A. Smith, Senior Judge

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